

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

LOCALS 302 AND 612 OF THE  
INTERNATIONAL UNION OF  
OPERATING ENGINEERS  
CONSTRUCTION INDUSTRY HEALTH  
AND SECURITY FUND; LOCALS 302  
AND 612 OF THE INTERNATIONAL  
UNION OF OPERATING ENGINEERS-  
EMPLOYERS CONSTRUCTION  
INDUSTRY RETIREMENT FUND;  
WESTERN WASHINGTON OPERATING  
ENGINEERS-EMPLOYERS TRAINING  
TRUST FUND; and LOCAL 302  
INTERNATIONAL UNION OF  
OPERATING ENGINEERS,

Plaintiffs,

v.

TBH & ASSOCIATES, LLC, a  
Washington limited liability company,

Defendant.

NO.

COMPLAINT TO COLLECT TRUST  
FUNDS AND UNION DUES

**COUNT ONE**

Plaintiff Operating Engineers-Employers Welfare, Pension, and Training Trust  
Funds allege:

COMPLAINT TO COLLECT TRUST FUNDS  
AND UNION DUES  
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I.

They are unincorporated associations operating as Trust Funds pursuant to Section 302 of the Labor Management Relations Act of 1947, as amended, under the respective names of Locals 302 and 612 of the International Union of Operating Engineers-Construction Industry Health & Security Fund, Locals 302 and 612 of the International Union of Operating Engineers-Employers Construction Industry Retirement Fund, and Western Washington Operating Engineers-Employers Training Fund, to provide medical, retirement, and training benefits to eligible participants. Plaintiffs' offices are located in King County, Washington.

II.

The Court has jurisdiction over the subject matter of this action under Section 502 (e)(1) and (f) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1132 (e)(1) and (f) and under Section 301 (a) of the Taft-Hartley Act, 29 U.S.C. §185 (a).

III.

Venue is proper in this district under Section 502 (e)(2) of ERISA, 29 U.S.C. §1132 (e)(2), because Plaintiff Trusts are administered in this district.

IV.

Defendant is a Washington limited liability company.

## V.

Defendant is bound to a collective bargaining agreement with Local 302 of the International Union of Operating Engineers (hereinafter "Local"), under which Defendant is required to promptly and fully report for and pay monthly contributions to the Plaintiff Trusts at varying, specified rates for each hour of compensation Defendant pays to its employees who are members of the bargaining unit represented by the Local (such bargaining unit members are any of Defendant's part time or full time employees who perform any work task covered by the Defendant's labor contract with the Local, whether or not those employees actually join the Local).

## VI.

Defendant accepted Plaintiffs' respective Agreements and Declarations of Trust and thereby agreed to pay to each of Plaintiff Trusts liquidated damages equal to twelve percent (12%) of all delinquent and delinquently paid contributions, or \$25.00 per month, whichever sums are greater, and twelve percent (12%) annual interest accruing upon each monthly contribution delinquency from the first day thereof until fully paid, as well as all attorneys fees and costs, including audit expenses if applicable, which Plaintiffs incur in collection of Defendant's unpaid obligations.

## VII.

Defendant submitted a remittance report for the month of October 2015, but failed to pay contributions for that month. The total contributions owed for said

1 month are \$2,538.00. Based on Defendant's unpaid contributions for the month of  
2 October 2015, Defendant is further obligated for liquidated damages in the amount of  
3 \$317.72, as well as interest accruing and attorneys' fees and costs.  
4

## 5 COUNT TWO

6 Plaintiff, Local 302 of the International Union of Operating Engineers  
7 (hereinafter "Local"), alleges:  
8

### 9 I.

10 It is a labor organization with its principal offices in King County and brings  
11 this action pursuant to Section 301 of the Labor Management Relations Act of 1947,  
12 as amended.  
13

### 14 II.

15 Defendant is a Washington limited liability company.  
16

### 17 III.

18 Defendant entered into an agreement with the Local, whereunder Defendant  
19 agreed to deduct from the periodic paychecks of its employees who are represented  
20 by the Local, specified amounts for each hour of compensation Defendant pays to  
21 those employees and to remit the total thus deducted each month to the Plaintiff  
22 Local no later than the fifteenth (15th) of the month immediately following the month  
23 in which such deductions were made.  
24  
25  
26

IV.

Defendant submitted a remittance report for the months of October 2015, but failed to pay Local 302 the amounts due for that month. The total amounts owed for said month are \$164.49.

WHEREFORE, Plaintiffs pray the Court as follows:

1. That plaintiff Trust Funds be granted judgment against Defendant under **COUNT ONE** for:


- a. All delinquent contributions due;
- b. All liquidated damages and pre-judgment interest due;
- c. All attorneys' fees and costs incurred by Plaintiffs in connection with Defendant's unpaid obligations; and
- d. Such other and further relief as the court may deem just and equitable.

3. That Plaintiff Trusts be granted judgment against Defendants under **COUNT TWO** for:

- a. All amounts owing to it by the Defendant; and
- b. Such other and further relief as the court may deem just and equitable.

DATED this 30th day of November, 2015.

REID, McCARTHY, BALLEW & LEAHY,  
L.L.P.

  
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Attorney for Plaintiffs